

§ 332.9

coordinator has verified are in compliance with the Act and implementing regulations in this chapter, those that have been deselected under § 332.10 of this part, and those that are transitioning to become official establishments under § 332.11 of this part.

(c) The selected establishment coordinator is to submit the quarterly report to the Administrator through the District Manager for the State where the selected establishments identified in the report are located.

§ 332.9 Enforcement authority.

(a) To facilitate oversight and enforcement of this part, selected establishments operating under a cooperative interstate shipment program must, upon request, give the FSIS selected establishment coordinator or other FSIS officials access to all establishment records required under the Act and the implementing regulations in this chapter. The Administrator may deselect any selected establishment that refuses to comply with this paragraph.

(b) Selected establishment coordinators may initiate any appropriate enforcement action provided for in part 500 of this chapter if they determine that a selected establishment under their jurisdiction is operating in a manner that is inconsistent with the Act and the implementing regulations in this chapter. Selected establishments participating in a cooperative interstate shipment program are subject to the notification and appeal procedures set out in part 500 of this chapter.

(c) If inspection at a selected establishment is suspended for any of the reasons specified in § 500.3 or § 500.4 of this chapter, FSIS will:

(1) Provide an opportunity for the establishment to implement corrective actions and remain in the cooperative interstate shipment program, or

(2) Move to deselect the establishment as provided in § 332.10 of this part.

(d) The decision to deselect a selected establishment under a suspension will be made on a case-by-case basis. In making this decision, FSIS, in consultation with the State where the selected establishment is located, will consider, among other factors:

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(1) The non-compliance that led to the suspension;

(2) The selected establishment's compliance history; and

(3) The corrective actions proposed by the selected establishment.

§ 332.10 Deselection of ineligible establishments.

(a) The Administrator will deselect a selected establishment that becomes ineligible to participate in a cooperative interstate shipment program for any reason listed under § 332.3(c) of this part.

(b) An establishment that has been deselected must transition to become an official establishment as provided in § 332.11 of this part.

§ 332.11 Transition to official establishment.

(a) If an establishment is deselected from a cooperative interstate shipment program as provided in § 332.10 of this part, FSIS, in coordination with the State where the establishment is located, will develop and implement a plan to transition the establishment to become an official establishment. Except that an establishment that was deselected from a cooperative interstate shipment program because it is located in a State whose agreement for such a program was terminated may either transition to become an official establishment or transition to become a State-inspected establishment under the cooperative State meat inspection program.

(b) An establishment that has been deselected from a cooperative interstate shipment program and successfully transitioned to become an official establishment may withdraw from the Federal inspection program and resume operations under the cooperative State meat inspection program after operating as an official establishment in full compliance with the Act for a year.

§ 332.12 Transition grants.

(a) Transition grants are funds that a State participating in a cooperative interstate shipment program under this part may apply for to reimburse selected establishments in the State for the cost to train one individual in the seven HACCP principles for meat

or poultry processing as required under § 417.7 of this chapter and associated training in the development of sanitation standard operating procedures required under part 416 of this chapter.

(b) A State participating in a cooperative interstate shipment program that receives a transition grant must use grant funds to reimburse the training costs of one employee per each selected establishment in the State. Any other use of such funds is prohibited.

§ 332.13 Separation of operations.

A selected establishment may conduct operations under the cooperative State meat inspection program if the establishment implements and maintains written procedures for complete physical separation of product and process for each operation by time or space.

§ 332.14 Voluntary withdrawal.

A selected establishment that is in full compliance with the requirements in this part may voluntarily end its participation in a cooperative interstate shipment program and operate under the cooperative State meat inspection program. Establishments that voluntarily end their participation in the cooperative may re-apply for the program after operating under the cooperative State meat inspection program for one year.

PART 335—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER THE FEDERAL MEAT INSPECTION ACT

AUTHORITY: 21 U.S.C. 601–695; 7 CFR 2.17, 2.55.

Subpart A—Criminal Violations

AUTHORITY: Sec. 406, Pub. L. 99–641, 100 Stat. 3571; 21 U.S.C. 606 note.

SOURCE: 42 FR 10960, Feb. 25, 1977. Redesignated at 64 FR 66545, Nov. 29, 1999.

§ 335.40 Opportunity for presentation of views before report of criminal violations.

(a) Except as provided in paragraphs (a)(1) through (5) of this section, before any violation of the Federal Meat In-

spection Act is reported to the Department of Justice by the Secretary for criminal prosecution the Secretary must give reasonable notice to the suspected violator that the Secretary intends to report the violation for prosecution and give the suspected violator an opportunity to present the violator's views to the Secretary with respect to such proceeding.

(1) Notice and opportunity need not be provided if the Secretary has any reason to believe that providing such notice and opportunity could result in the alteration or destruction of evidence, or where disclosure could result in injury to persons or property.

(2) Notice and opportunity need not be provided if the Secretary has any reason to believe that providing such notice and opportunity could result in flight of a suspected violator to avoid prosecution.

(3) Notice and opportunity need not be provided if the Secretary has any reason to believe that providing such notice and opportunity could result in compromising special investigative techniques, such as undercover or other covert operations.

(4) Notice and opportunity need not be provided when the impending criminal referral involves suspicion of bribery and related offenses, or clandestine slaughtering and/or processing operations.

(5) Notice and opportunity need not be provided when the impending referral is part of an investigation involving non-Act violations, and the Act and non-Act violations are jointly referred for prosecution.

(b) A notice of opportunity to present views will be sent by registered or certified mail, summarize the violations that constitute the basis of the contemplated prosecution, and describe the procedures for presentation of views. Any information given by a respondent, orally or in writing, shall become part of the Department's official record concerning the matter. The Department is under no obligation to disclose evidence to the suspected violator.

[52 FR 13828, Apr. 27, 1987]